

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

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FILED
WESTERN DISTRICT OF TEXAS
BY *an*

ROYCHESTER ARMELIN

Plaintiff,

VS.

CITY OF SAN ANTONIO, JOHN
DOE 1, JOHN DOE 2, JOHN DOE 3
VIA METROPOLITAN TRANSIT,
JOHN DOE 4

Defendants.

CIVIL ACTION NO. _____

SA08CA0982 OG

DEFENDANTS' PETITION FOR REMOVAL

Now come the **CITY OF SAN ANTONIO, JOHN DOE 1, JOHN DOE 2 AND JOHN DOE 3**, in Their Official Capacities, Defendants in the above entitled and numbered cause, and pursuant to 28 U.S.C. 1441(b) files this their Petition for Removal and would respectfully show unto the Court the following:

I.

On November 8, 2008, an action was commenced against the Petitioners, **CITY OF SAN ANTONIO, JOHN DOE 1, JOHN DOE 2 AND JOHN DOE 3**, in Their Official Capacities, Defendants, in the 218th Judicial District Court of LaSalle County, Texas, styled, **ROYCHESTER ARMELIN v. CITY OF SAN ANTONIO, JOHN DOE 1, JOHN DOE 2 AND JOHN DOE 3**, in Their Official Capacities, Defendants, Civil Cause No. 2008-CI-17878 by service upon the Petitioners of Plaintiff's First Amended Petition on November 26, 2008, copies of which are attached hereto as **Exhibit "A"** and incorporated herein for all purposes. Plaintiff amended his petition on November 8, 2008. Copies of all proceedings before the State District Court are attached as **Exhibit "B."** No other proceedings have been held in said cause.

II.

The above entitled and numbered cause is a civil action in which this Court has original jurisdiction under the provisions of 28 U.S.C. 1331, and is one which may be removed to this Court by Petitioners, **CITY OF SAN ANTONIO, JOHN DOE 1, JOHN DOE 2 AND JOHN DOE 3**, in Their Official Capacities, pursuant to the provision in 28 U.S.C. 1441(b), in that the Plaintiff, **ROYCHESTER ARMELIN** alleges his civil rights were violated under 42 U.S.C. §1983.

III.

Specifically, Plaintiff **ROYCHESTER ARMELIN** alleges that the Petitioners, **CITY OF SAN ANTONIO, JOHN DOE 1, JOHN DOE 2 AND JOHN DOE 3**, in Their Official Capacities, Defendants, violated his civil rights under the Fourth Amendment under 42 U.S.C. §1983.

IV.

Petitioners further submit that it will pay all court costs and debts incurred by reason of this removal proceeding should the Court determine that this action is not removable or is improperly removed. Furthermore, a written notice of the filing of the Petition has been given to all adverse parties.

V.

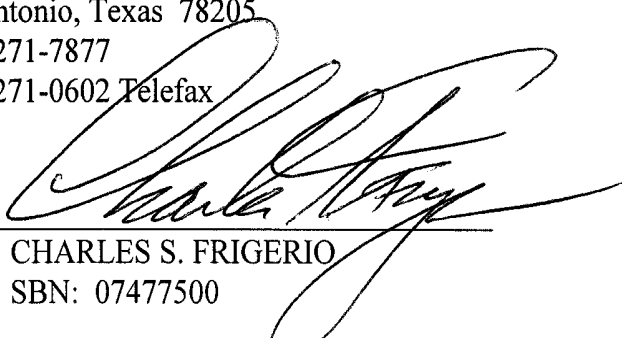
Petitioners, **CITY OF SAN ANTONIO, JOHN DOE 1, JOHN DOE 2 AND JOHN DOE 3**, in Their Official Capacities, Defendants, herein all join in this motion for removal. Defendant **VIA METROPOLITAN TRANSIT AND JOHN DOE NO. 4** are non-served nominal parties in this matter and therefore a Joinder for Removal is not necessary in this cause.

WHEREFORE, PREMISES CONSIDERED, Petitioners prays that the above entitled and numbered cause now pending in the 45th Judicial District Court of Bexar County, Texas be removed to this Court.

Respectfully submitted,

LAW OFFICES OF CHARLES S. FRIGERIO
A Professional Corporation
Riverview Towers
111 Soledad, Suite 840
San Antonio, Texas 78205
(210) 271-7877
(210) 271-0602 Telefax

BY:



CHARLES S. FRIGERIO
SBN: 07477500

HECTOR X. SAENZ
SBN: 17514850
ATTORNEYS FOR DEFENDANT
CITY OF SAN ANTONIO

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Defendant **CITY OF SAN ANTONIO'S** Petition for Removal has been forwarded by certified mail to:

Mr. Bernard Buecker
1220 Tower Life Building
310 S. St. Mary's Street
San Antonio, Texas 78205

on this the 2nd day of December, 2008.



CHARLES S. FRIGERIO

VERIFICATION

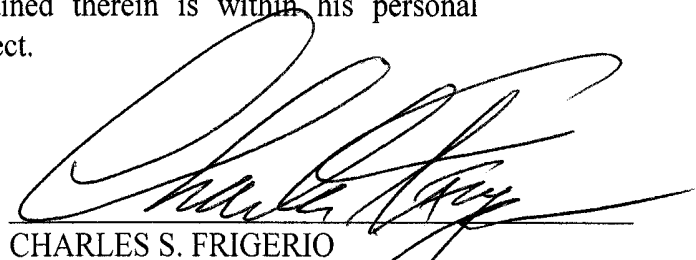
STATE OF TEXAS *
 *
COUNTY OF BEXAR *

BEFORE ME, the undersigned authority, on this day personally appeared **CHARLES S. FRIGERIO**, known to me to be a credible person, and upon his oath, stated as follows:

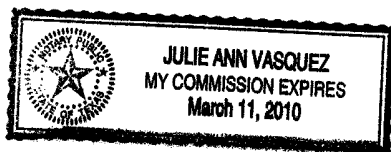
That he is a Trial Attorney and licensed to practice law in the State of Texas;

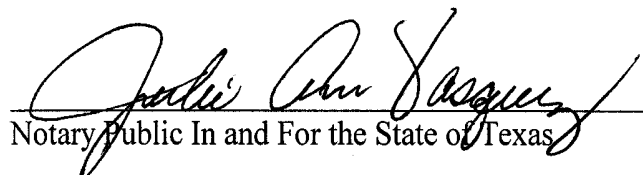
That he is an attorney of record for Defendant Petitioners, **CITY OF SAN ANTONIO, JOHN DOE 1, JOHN DOE 2 AND JOHN DOE 3**, in Their Official Capacities, Defendants, in the foregoing entitled and numbered cause, and has read the foregoing Defendants' Petition for Removal; and,

That the information contained therein is within his personal knowledge and true and correct.


CHARLES S. FRIGERIO

SUBSCRIBED AND SWORN TO BEFORE ME by the said **CHARLES S. FRIGERIO**, on this, the 8th day of December, 2008, to certify which witness my hand and seal of office.




Notary Public In and For the State of Texas
My Commission Expires: 3-11-2010